

HOUSE BILL 287

By McDonald

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 121, relative to elevators.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-121-101, is amended by adding the following as new subdivisions:

() "Administrators" means the commissioner of labor and workforce development or the officers designated by the elevator and amusement device safety board;

() "Operation permit" means a document issued by the board that indicates that the conveyance has had the required safety inspection and tests and fees have been paid as set forth in this chapter;

() "Temporary operation permit" means a document issued by the board that permits the temporary use of a non-compliant conveyance by the general public for a limited time, thirty (30) days while minor repairs are being completed;

() "Conveyance" means any elevator, dumbwaiter, escalator, moving sidewalk, platform lifts, stairway chairlifts, and automated people movers;

() "Elevator contractor" means any sole proprietor, firm, or corporation that possesses an elevator contractor's license in accordance with this chapter and that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing or maintaining elevators or related conveyance covered by this chapter;

() "Elevator helper/apprentice" means works under the general direction of a licensed elevator mechanic. A license is not required;

() "Elevator mechanic" means any person who possesses an elevator mechanic license in accordance with this chapter and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators or related conveyance covered by this chapter;

() "License" means a written license, duly issued by the board, authorizing a person, sole proprietor, firm, or corporation to carry on the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining of elevators or related conveyance covered by this chapter;

() "License, elevator contractors" means a license that is issued to an elevator contractor who has been authorized by the board to possess this type of license. It shall entitle the holder thereof to engage in the business of erecting, constructing, installing, altering, servicing, testing, repairing, or maintaining elevators or related conveyance covered by this chapter;

() "License, limited elevator contractors" means a license that is issued by the board authorizing a sole proprietor, firm, or corporation who employs individuals to carry on a business of erecting, constructing, installing, altering, servicing, repairing, or maintaining platform lifts, and stairway chairlifts, including but not limited to private residences;

() "License, elevator mechanic" means a license that is issued to a person who has proven such person's qualifications and ability and has been authorized by the board to work on conveyance equipment. The license shall entitle the licensee to install, construct, alter, service, repair, test, maintain, and perform electrical work on elevators or related conveyance covered by this chapter;

() "Licensee" means the elevator mechanic or elevator contractor;

() "Material alteration" means an "alteration" as defined in the referenced standards;

() "Private residence" means a separate dwelling or a separate apartment in a multiple dwelling, which is occupied by members of a single-family unit;

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 121, is amended by adding the following as a new section:

68-121-113.

(a) This chapter covers the design, construction, operation, testing, maintenance, alteration, and repair of the following equipment, its associated parts, and its hoistways, except as modified by subsection (c):

(1) Hoisting and lowering mechanisms equipped with a car or platform, which move between two (2) or more landings. This equipment includes, but is not limited to, the following:

(A) Elevators; and

(B) Platform lifts and stairway chair lifts;

(2) Power driven stairways and walkways for carrying persons between landings. This equipment includes, but is not limited to, the following:

(A) Escalators; and

(B) Moving walks; and

(3) Hoisting and lowering mechanisms equipped with a car that serves two (2) or more landings and is restricted to the carrying of material by its limited size or limited access to the car. This equipment includes, but is not limited to, the following:

(A) Dumbwaiters; and

(B) Material lifts and dumbwaiters with automatic transfer devices.

(b) This chapter covers the design, construction, operation, maintenance, alteration, and repair of automatic guided transit vehicles on guideways with an exclusive right-of-way. This equipment includes, but is not limited to, an automated people mover.

(c) Equipment not covered by this chapter includes, but is not limited to, the following:

- (1) Material hoists;
 - (2) Mobile scaffolds, towers and platforms;
 - (3) Powered platforms and equipment for exterior and interior maintenance;
 - (4) Conveyors and related equipment;
 - (5) Cranes, derricks, hoists, hooks, jacks, and slings;
 - (6) Industrial trucks;
 - (7) Portable equipment, except for portable escalators;
 - (8) Tiering or piling machines used to move materials to and from storage located and operating entirely within one (1) story;
 - (9) Equipment for feeding or positioning materials at machine tools, printing presses, etc.;
 - (10) Skip or furnace hoists;
 - (11) Wharf ramps;
 - (12) Railroad car lifts or dumpers; and
 - (13) Line jacks, false cars, shafters, moving platforms, and similar equipment used for installing an elevator by a contractor licensed in this state.
- (d)

(1) The purpose of this chapter is to provide for the safety of installers, maintainers, operators, and users and to promote public safety awareness. The use of unsafe and defective lifting devices imposes a substantial probability of serious and preventable injury to employees and the public exposed to unsafe conditions. The prevention of these injuries and protection of employees and the public from unsafe conditions is in the best interest of the people of this state. Elevator personnel performing work covered by this chapter shall by documented training, experience, or both, be familiar with the operation and safety functions of the components and equipment. Training and experience shall include, but not be limited to, recognizing the safety hazards and performing the procedures to which they are assigned in conformance with the requirements of the code. This chapter shall establish the minimum standards for elevator personnel.

(2) This chapter is not intended to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, code effectiveness, durability, and safety to those required by the code, provided that there is technical documentation to demonstrate the equivalency of the system, method, or device.

(3) This chapter shall not impose any duty on the department or board to ensure that all elevator mechanics operating in the state are licensed under this chapter.

(e) No person shall erect, construct, alter, replace, maintain, remove, or dismantle any conveyance in this state unless an elevator mechanic license has been issued as described in this chapter and is working under the direct supervision of a sole proprietor, firm, or corporation that is an elevator contractor pursuant to this chapter. No person shall wire any conveyance from the mainline feeder terminals on the controller in

this state unless an elevator mechanic license has been issued as described in this chapter and is working under the direct supervision of a sole proprietor, firm, or corporation that is an elevator contractor pursuant to this chapter. No other license shall be required for this work. A licensed elevator contractor is not required for removing or dismantling conveyances that are destroyed as a result of a complete demolition of a secured building or structure or where the hoistway or wellway is demolished back to the basic support structure whereby no access is permitted therein to endanger the safety and welfare of a person.

(f)

(1) Any person wishing to engage in installing, altering, repairing or servicing elevator, dumbwaiter, escalator, moving sidewalks installation, alteration, service, replacement, or maintenance within this state shall make application for a license with the board on a form provided by the board.

(2) No elevator mechanic license shall be granted to any applicant who has not demonstrated their qualifications and abilities. The qualifications of an elevator mechanic shall include the following:

(A) Each applicant shall provide verification of the applicant's eligibility to work in the United States; and

(B) Each applicant shall demonstrate one (1) of the following qualifications:

(i) An acceptable combination of documented experience and education credits: not less than three (3) years work experience in the elevator industry, in construction, maintenance or service/repair or any combination thereof, as verified by current and previous employers licensed to do business in this state; and

satisfactory completion of a written examination administered by the board on the most recent referenced codes and standards;

(ii) Acceptable proof that they have worked as an elevator constructor, maintenance, or repair person. Any applicant who furnishes the commissioner with acceptable proof of such shall be entitled, upon making application for a license and paying the license fee, to receive a license without an examination. The applicant shall have worked without direct and immediate supervision for an elevator contractor licensed to do business in this state. This employment shall not be less than three (3) years immediately prior to the effective date of this act. The person must make application within one (1) year of the effective date of this act;

(iii) A certificate of completion and acceptable proof of having successfully passed the mechanic examination of a nationally recognized training program for the elevator industry;

(iv) A certificate of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter, and registration with the bureau of apprenticeship and training, United States department of labor or the Tennessee apprenticeship council; or

(v) A valid license from a state having standards substantially equal to those of this chapter. A license shall be issued to an applicant under this subdivision (f)(2)(B)(v) upon application and without examination.

(3)

(A) No elevator contractor license shall be granted to any sole proprietor, firm, or corporation that has not demonstrated the requisite qualifications and abilities.

(B) The qualifications of an elevator contractor shall include the following:

(i) Employing licensed elevator mechanics who perform the work described in subsection (e); and

(ii) Providing proof of compliance with the insurance requirements set forth in subsection (l).

(C) A license may be issued to a sole proprietor, firm, or corporation holding a valid license from a state having standards substantially equal to those of this chapter upon application.

(g)

(1) Upon approval of an application by the administrator, the board may issue a license, which shall be renewable biennially. The fee for such license for any renewal shall be set by the board.

(2) Whenever an emergency exists in the state due to disaster, act of God or work stoppage and the number of persons in the state holding licenses granted by the board is insufficient to cope with the emergency, elevator contractors shall respond as necessary to assure the safety of the public. Any person certified by a licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall seek an emergency elevator mechanic license from the board within five (5) business days after commencing

work requiring a license. The administrator shall issue emergency elevator mechanic licenses. The elevator contractor shall furnish proof of competency as the administrator may require. Each such license shall recite that it is valid for a period of forty-five (45) days from the date thereof and for such particular elevators or geographical areas as the administrator may designate and otherwise shall entitle the licensee to the rights and privileges of an elevator mechanic license issued in this chapter. The administrator shall renew an emergency elevator mechanic license during the existence of an emergency. No fee shall be charged for any emergency elevator mechanic license or renewal thereof.

(3) An elevator contractor shall notify the administrator when there are no licensed personnel available to perform elevator work. The elevator contractor may request that the administrator issue temporary elevator mechanic licenses to persons certified by the licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision. Any person certified by an elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall immediately seek a temporary elevator mechanic license from the board and shall pay such fee, as the board shall determine. Each such license shall recite that it is valid for the term specified in subdivision (g)(1) and while employed by the licensed elevator contractor that certified the individual as qualified. It shall be renewable as long as the shortage of license holders continues.

(4) The renewal of all licenses granted under this section shall be conditioned upon the submission of a certificate of completion of a course designed to ensure the continuing education of licensees on new and existing provisions of the regulations of the board. Such course shall consist of not less than eight (8) hours of instruction that shall be attended and completed within one (1) year immediately preceding any such license renewal.

(5) The courses shall be taught by instructors through continuing education providers that may include, but shall not be limited to, association seminars and labor training programs. The board shall approve the continuing education providers. All instructors shall be approved by the board and exempt from the requirements of subdivision (g)(4) with regard to their application for license renewal provided that such applicant was qualified as an instructor at any time during the one (1) year immediately preceding the scheduled date for such renewal.

(6) A licensee who is unable to complete the continuing education course required under this section prior to the expiration of their license due to a temporary disability may apply for a waiver from the board. This will be on a form provided by the board which shall be signed under the pains and penalties of perjury and accompanied by a certified statement from a competent physician attesting to such temporary disability. Upon the termination of such temporary disability, such licensee shall submit to the board a certified statement from the same physician, if practicable, attesting to the termination of such temporary disability. At which time a waiver sticker, valid for ninety (90) days, shall be issued to such licensee and affixed to his license.

(7) Approved training providers shall keep uniform records, for a period of ten (10) years, of attendance of licensees following a format approved by the board and such records shall be available for inspection by the board at its request. Approved training providers shall be responsible for the security of all attendance records and certificates of completion; provided, however, that falsifying or knowingly allowing another to falsify such attendance records or certificates of completion shall constitute grounds for suspension or revocation of the approval required under this section.

(h) The board shall have the power to suspend or revoke a license or subject the licensee to civil penalty; provided, however, that the licensee shall be entitled to a hearing before the administrator upon notice to the licensee of at least ten (10) days at the last known address appearing on the license, served personally or by registered mail. The notice shall state the date, hour, and place of hearing and set forth a statement of facts constituting the grounds for the charges against the licensee. The administrator shall either confirm the suspension or revocation of the license or reinstate the license and dismiss the proceeding.

(i) It shall be the responsibility of individuals, firms, or corporations licensed as described in this chapter to ensure that installation or service and maintenance of elevators and devices described in this chapter, is performed in compliance with the state fire prevention and building code, and with generally accepted standards referenced in that code.

(j) No conveyance, covered by this chapter shall be erected, constructed, installed, or altered within the state unless a permit has been obtained from the board before the work is commenced. Where any material alteration is made, the device shall conform to applicable requirements for the alteration. No permit required under this

subsection (j) shall be issued except to a sole proprietor, firm, or corporation holding a current elevator contractor's license, duly issued pursuant to this chapter. A copy of such permit shall be kept at the construction site at all times while the work is in progress.

(k)

(1) Elevator contractors shall submit to the board, an insurance policy or certified copy thereof, issued by an insurance company authorized to do business in the state, to provide general liability coverage of at least one million dollars (\$1,000,000) for injury or death of any number of persons in any one (1) occurrence, with the coverage of at least five hundred thousand dollars (\$500,000) for property damage in any one (1) occurrence and the statutory workers compensation insurance coverage.

(2) Such policies, or duly certified copies thereof, or an appropriate certificate of insurance, approved as to form by the commissioner of commerce and insurance and as to sufficiency by the comptroller of the treasury, shall be delivered to the board before or at the time of the issuance of a license. In the event of any material alteration or cancellation of any policy at least ten (10) days notice thereof shall be given to the board.

(l) This chapter shall not be construed to relieve or lessen the responsibility or liability of any person, firm, or corporation owning, operating, controlling, maintaining, erecting, constructing, installing, altering, testing, or repairing any elevator or other related mechanisms covered by this chapter for damages to person or property caused by any defect therein, nor does the state assume any such liability or responsibility therefore or any liability to any person for whatever reason whatsoever by the adoption of this chapter or any acts or omissions arising under this chapter.

(m) All tests shall be performed by a licensed elevator mechanic.

(n) Whenever a provision in this chapter is found to be inconsistent with other applicable state law, code, or regulation, the state law shall prevail. This chapter, unless specifically stated otherwise, is not intended to establish more stringent or more restrictive standards than standards set forth in other applicable state law.

(o) The board is authorized to charge a fee to each applicant for licensure or renewal, which shall be an amount sufficient to fund the requirements of this section. All proceeds from such fees shall be used to fund the implementation of this section.

SECTION 3. Tennessee Code Annotated, Section 68-121-103, is amended by adding the following as a new subsection (f):

(f) The board shall not adopt any new editions of such safety standards authorized by this act except upon the regularly scheduled adoption of the edition.

SECTION 4. Tennessee Code Annotated, Section 68-121-101, is further amended by deleting the following in its entirety:

() “Dormant elevator, dumbwaiter or escalator” means an elevator or dumbwaiter whose cables have been removed, whose car and counterweight rest at the bottom of the shaftway, and whose shaftway doors are permanently boarded up or barricaded on the inside, or an escalator whose main power feed lines have been disconnected; and substituting instead the language:

() “Dormant elevator, dumbwaiter or escalator” means an elevator, dumbwaiter, or escalator whose cables have been removed, whose car and counterweight rest at the bottom of the shaftway, and whose shaftway doors are permanently boarded up or barricaded on the inside and whose main power feed lines have been disconnected;

SECTION 5. The board shall establish and impose a safety fee on elevator inspections and elevator installations, which shall be used to fund the implementation of this act.

SECTION 6. This act shall take effect July 1, 2011, the public welfare requiring it, for the purposes of establishing and collecting safety fees in order to fund the act. For all other purposes, this act shall take effect July 1, 2012, the public welfare requiring it.